

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BENJAMIN SPARKS, an individual,

Plaintiff,

v.

CHRISTINA MAMER, an individual; and  
RAMONA GIWARGIS, an individual,

Defendants.

Case No. 2:20-cv-0661-KJD-VCF

**ORDER**

Before the Court is defendant Christina Mamer's Emergency Motion to Temporarily Seal and For a Protective Order Regarding Plaintiff's Opposition to Motion Dismiss (ECF No. 11). Mamer also requests a seven-day extension from the issuance of this order to reply to plaintiff Benjamin Sparks's opposition, which was filed May 14, 2020. For the reasons listed below, Mamer's motion is granted.

This defamation case arises from the turbulent end of an "unconventional" romantic relationship between Sparks and Mamer. Emergency Mot. 7, ECF No. 11. Sparks claims that Mamer disparaged him to the police and to the Review Journal following the couples' split in 2018. His complaint brings three claims against Mamer and Ramona Giwargis, a reporter for the Las Vegas Review Journal: (1) defamation and/or defamation per se; (2) false light; and (3) injunctive relief. See Compl. 6-9, ECF No. 1-2. Mamer removed the case to this Court on April 9, 2020. Shortly thereafter, Mamer moved to dismiss the complaint under NRS § 41.660's anti-SLAPP provision (ECF No. 5). For his part, Sparks has moved to remand the case to state court (ECF No. 7) and has timely responded to Mamer's motion to dismiss (ECF No. 10).

Sparks's opposition to the motion to dismiss prompted Mamer's current emergency motion to seal. In it, Mamer argues that Sparks's opposition purposely disclosed intimate and

1 sensitive details about her sexual history to embarrass and harass Mamer. Emergency Mot. at 5.  
 2 Making matters worse, the sensational facts have been disseminated to Mamer’s colleagues in an  
 3 attempt to injure her reputation as an attorney in the Las Vegas legal community. Id. She asks  
 4 that the Court temporarily seal Sparks’s opposition until the parties can brief the issue in the  
 5 ordinary course. Given that Mamer’s motion is before the Court on an emergency basis, Sparks  
 6 has not yet had an opportunity to respond to her request to seal.<sup>1</sup>

7 There is a strong public interest in access to public records and court documents. See  
 8 Nixon v. Warner Commc’ns, Inc., 435 U.S. 589, 597 (1978). The presumption that judicial  
 9 documents will remain available to the public promotes the accountability and transparency of  
 10 government agencies. Id. However, public access to judicial records is “not absolute.” Kamakana  
 11 v. City and Cty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006). Certain documents by their  
 12 very nature fall outside the public’s interest in transparency. Id. (citing Times Mirror Co. v.  
 13 United States, 872 F.2d 1210, 1219 (9th Cir. 1989) (grand jury transcripts and warrant materials  
 14 typically remain sealed)). For all other documents, the petitioner only overcomes the  
 15 presumption of public access if “compelling reasons” for secrecy outweigh the “public interest in  
 16 understanding the judicial process.” Kamakana, 447 F.3d at 1178–79 (internal citations omitted).  
 17 Typically, there is a “compelling reason” to seal if the challenged document is used for a an  
 18 improper purpose, such as a party’s desire to “gratify private spite, promote public scandal, [or]  
 19 circulate libelous statements.” Nixon, 435 U.S. at 598.

20 Mamer argues that she has met that standard because Sparks’s opposition needlessly  
 21 published scandalous and sensational accusations about her and vindictively disclosed aspects of  
 22 her sexual history that are irrelevant to the parties’ underlying claims. The question for the Court  
 23 is whether Mamer’s desire to protect the intimate aspects of her sexual history outweigh the  
 24 public interest in access to judicial documents. The Court finds that it does. As a starting point,  
 25 common sense suggests that one’s sexual propensities and sexual history comprise the most  
 26 intimate details of a person’s life. Doe v. Diocese Corp., 647 A.2d 1067, 1072 (Conn. 1994).

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 28 <sup>1</sup> However, according to Mamer, the parties did meet and confer on Friday, May 15, and Sparks was made  
 aware that the motion to seal was forthcoming. Decl. of James Whitmore, Emergency Mot. at 3.

1 There is an inherent interest in keeping such details private. Courts recognize that interest in the  
2 criminal context by requiring any motion to admit evidence of a victim's sexual history to be  
3 filed under seal. See Fed. R. Evid. 412(c); United States v. Valenzuela, No. CR 07-00011(A)-  
4 MMM, 2008 WL 2824958 at \*4 (C.D. Cal. July 21, 2008). The Court then reviews the motion in  
5 camera and gives the victim an opportunity to address the Court in private before admitting the  
6 evidence. Fed. R. Evid. 412(c)(2). Oftentimes, the record remains sealed even after the in-camera  
7 review. The Court is persuaded that the very nature of the information here supports temporarily  
8 sealing Sparks's response.

9 Also supporting Mamer's motion is that she did not elect to bring this suit. She has not  
10 published the details of her personal life and sexual history to the record. And the sensitive  
11 personal details of Mamer and Sparks's life that she has disclosed, she has disclosed in response  
12 to Sparks's claims. Sparks, on the other hand, instituted this suit and has—to an extent—opened  
13 the door to the details of his personal life that relate to his claims. Therefore, the Court finds it  
14 appropriate to temporarily seal Sparks's response to Mamer's motion to dismiss (ECF No. 10)  
15 until it can rule on Mamer's motion in the ordinary course.

16 Accordingly, IT IS HEREBY ORDERED that Mamer's Emergency Motion to  
17 Temporarily Seal and For a Protective Order Regarding Plaintiff's Opposition to Motion Dismiss  
18 (ECF No. 11) is **GRANTED**.

19 The Clerk's Office is directed to **SEAL** Benjamin Sparks's Response to Motion to  
20 Dismiss (ECF No. 10).

21 IT IS FURTHER ORDERED that Sparks shall file a response to Mamer's Emergency  
22 Motion to Seal (ECF No. 11) on or before May 29, 2020. Mamer may file her optional reply to  
23 Sparks's response on or before June 5, 2020. Sparks's opposition shall remain sealed until the  
24 Court has ruled on this motion in the ordinary course.

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1 IT IS FURTHER ORDERED that the parties shall not publicly disseminate Sparks's  
2 opposition (ECF No. 10) while it is sealed.

3 IT IS FUTHER ORDERED that Mamer's request for an extension of time to file her  
4 reply to Sparks's response to motion for summary judgment is **GRANTED**. Mamer shall file her  
5 reply on or before May 22, 2020.

6 Dated this 15th day of May, 2020.

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Kent J. Dawson  
United States District Judge